

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CORPORATE TRAINING	:	CIVIL ACTION
TECHNOLOGIES, INC.	:	
d/b/a BankersEdge	:	
	:	
v.	:	
	:	
EDCOMM, INC.	:	NO. 08-cv-02128-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

November 3, 2008

Plaintiff asserts that the defendant's President circulated an email containing numerous false statements about the plaintiff, in an effort to cause potential customers to do business with the defendant rather than the plaintiff (the two companies are direct competitors). The complaint alleges violations of the Lanham Act, the torts of defamation and unfair competition, etc. As filed, the complaint also asserted a claim for improper interference with prospective contractual relations, but that count (Count III) has been withdrawn by plaintiff.

The defendant has filed a motion to dismiss under Fed. R. Civ. P. 12(b)(6). I readily conclude, however, that the complaint withstands dismissal under that Rule, and that plaintiff should be afforded an opportunity to develop support for its claims through discovery. There may be some difficulty in establishing that the controversial email was circulated to a wide-enough audience to qualify under the Lanham Act, or that plaintiff can establish that it suffered actual damages, but these are issues

which cannot be addressed at this stage of the proceedings. Except as to Count III, the motion to dismiss will be denied.

An Order follows.

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ORDER

AND NOW, this 3rd day of November 2008, IT IS ORDERED:

1. Count III of plaintiff's complaint, having been withdrawn, is now DISMISSED.

2. In all other respects, defendant's motion to dismiss the complaint is DENIED.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.